

## STATEMENT OF EMERGENCY

907 KAR 1:054E

(1) This emergency administrative regulation is being promulgated to comply with an Affordable Care Act mandate. The amendment to this administrative regulation is necessary to establish Kentucky Medicaid Program coverage and reimbursement of additional behavioral health services including substance use disorder services. The Department for Medicaid Services (DMS) currently covers substance use related services for pregnant women and children; however, the Affordable Care Act mandates coverage of substance use disorder services for all Medicaid recipients (who meet qualifying criteria.) Additionally, DMS is expanding the base of behavioral health providers to ensure that there is an adequate supply of providers to meet Medicaid recipient demand for care – as federally required.

(2) This action must be taken on an emergency basis to comply with a federal mandate.

(3) This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

(4) The ordinary administrative regulation is identical to this emergency administrative regulation.

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Steven L. Beshear  
Governor

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Audrey Tayse Haynes, Secretary  
Cabinet for Health and Family Services

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Policy and Operations

4 (Amendment)

5 907 KAR 1:054. Coverage provisions and requirements regarding federally-qualified  
6 health center services, federally-qualified health center look-alike services, and primary  
7 care center [and federally-qualified health center] services.

8 RELATES TO: KRS 205.520, 310.005, 314.011, 335.100, 42 C.F.R. 400.203,  
9 405.2401, 2412-2416, 2446, 2448, 2450, 2452, 441 Subpart E and F, 447.53, 42 U.S.C.  
10 1395x(aa), 42 U.S.C. 1396d

11 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

12 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Ser-  
13 vices, Department for Medicaid Services has responsibility to administer the Medicaid  
14 Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply  
15 with any requirement that may be imposed, or opportunity presented, by federal law to  
16 qualify for federal Medicaid funds~~[for the provision of medical assistance to Kentucky's in-~~  
17 ~~digent citizenry].~~ This administrative regulation establishes the Medicaid Program cover-  
18 age provisions and requirements relating to primary care center and federally-qualified  
19 health center services~~[for which payment shall be made by the Medicaid Program on be-~~  
20 ~~half of both the categorically needy and medically needy].~~

21 Section 1. (1) "Advanced practice registered nurse practitioner" is defined by KRS

314.011(7).

(2) "Certified social worker" means an individual who:

(a) Meets the requirements established in KRS 335.080; and

(b) Has at least a master's degree in social work.

(3) "Clinical pharmacist" means a licensed pharmacist whose scope of service includes taking medication histories, monitoring drug use, contributing to drug therapy, drug selection, patient counseling, administering drug programs, or surveillance for adverse reactions and drug interactions.

~~(4)~~~~(3)~~ "Clinical psychologist" means a doctorate level psychologist who is licensed in accordance with KRS 319.050.

(5) "Club house model of psychosocial rehabilitation" means a form of psychosocial rehabilitation that focuses on self-help, friendship, emotional support, acceptance, and meaningful and gainful employment.

(6) "Community support associate" means an individual who meets the community support associate requirements established in 908 KAR 2:250.

~~(7)~~~~(4)~~ "Department" means the Department for Medicaid Services or its designee.

(8) "Enrollee" means a recipient who is enrolled with a managed care organization.

~~(9)~~~~(5)~~ "Emergency condition" means a condition or situation requiring an emergency service pursuant to 42 C.F.R. 447.53.

(10) "Face-to-face" means occurring:

(a) In person; or

(b) Via a real-time, electronic communication that involves two (2)-way interactive video and audio communication.

(11) "Family peer support specialist" means an individual who meets the requirements

1 for a Kentucky family peer support specialist established in 908 KAR 2:230.

2 (12) "Federal financial participation" is defined in 42 C.F.R. 400.203.

3 (13)[(6)] "Federally-qualified health center" or "FQHC" is defined by 42 U.S.C.  
4 1396d(l)(2)(B).

5 (14) "Federally-qualified health center look-alike" or "FQHC look-alike" means an entity  
6 that is currently approved by the United States Department of Health and Human Services,  
7 Health Resources and Services Administration, and the Centers for Medicare and Medi-  
8 caid Services to be a federally-qualified health center look-alike.

9 (15) "Fountain House" means the professional self-help program located in New York  
10 City about which information is available on the Web Site of <http://www.fountainhouse.org/>.

11 (16)[(7)] "Licensed clinical social worker" means an individual who meets the licensed  
12 clinical social worker requirements established in KRS 335.100.

13 (17) "Licensed marriage and family therapist" is defined by KRS 335.300(2).

14 (18) "Licensed professional clinical counselor" is defined by KRS 335.500(3).

15 (19) "Licensed professional counselor associate" is defined by KRS 335.500(3).

16 (20) "Licensed psychological associate" means an individual who:

17 (a) Currently possesses a licensed psychological associate license in accordance with  
18 KRS 319.010(6); and

19 (b) Meets the licensed psychological associate requirements established in Chapter 26  
20 of the Kentucky Administrative Regulations.

21 (21) "Licensed psychological practitioner" means an individual who meets the require-  
22 ments established in KRS 319.053.

23 (22) "Licensed psychologist" means an individual who:

24 (a) Currently possesses a licensed psychologist license in accordance with KRS

1 319.010(6); and

2 (b) Meets the licensed psychologist requirements established in Chapter 26 of the Ken-  
3 tucky Administrative Regulations.

4 (23) "Marriage and family therapy associate" is defined by KRS 335.300(3).

5 (24) "Managed care organization" means an entity for which the Department for Medi-  
6 caid Services has contracted to serve as a managed care organization as defined in  
7 42 C.F.R. 438.2.

8 (25) "Medically necessary" means that a covered benefit or service is necessary in ac-  
9 cordance with 907 KAR 3:130.

10 (26)~~[(8)]~~ "Nurse-midwife" is defined by 42 C.F.R. 405.2401(b).

11 (27)~~[(9)]~~ "Nutritionist" is defined by KRS 310.005(4).

12 (28) "Peer support specialist" means an individual who meets the peer specialist quali-  
13 fications established in 908 KAR 2:220.

14 (29)~~[(10)]~~ "Physician" is defined by KRS 205.510(11) and 42 C.F.R. 405.2401(b).

15 (30)~~[(11)]~~ "Physician assistant" is defined by KRS 311.840(3) and 42 C.F.R.  
16 405.2401(b).

17 (31)~~[(12)]~~ "Primary care center" or "PCC" means an entity meeting the primary care  
18 center requirements established in 902 KAR 20:058.

19 (32) "Qualified mental health professional" is defined by KRS 202A.011(12).

20 (33) "Recipient" is defined by KRS 205.8451(9).

21 (34)~~[(13)]~~ "State plan" is defined by 42 C.F.R. 400.203.

22 (35) "Youth peer support specialist" means an individual who meets the requirements  
23 established for a Kentucky youth peer support specialist established in 908 KAR 2:240.

24 Section 2. Primary Care Center Covered Services Other Than Behavioral Health Ser-

vices. (1) The department shall cover, and a primary care center shall provide, the following services:

(a) Medical diagnostic or treatment services provided by a physician, advanced registered nurse practitioner, or a physician assistant if licensed under state authority;

(b) Treatment of injuries or minor trauma;

(c) Prenatal or postnatal care;

(d) Preventive health services including well-baby care, well-child care, immunization, or other preventive care;

(e) Referral services designed to ensure the referral to and acceptance by an appropriate medical resource if services necessary to the health of the patient are not provided directly by the center; and

(f) Health education, including distribution of written material, provided by appropriate personnel to local school systems, civic organizations, or other concerned local groups.

(2) The department shall cover the following services and a primary care center shall provide at least two (2) of the following services:

(a) Dental services;

(b) Optometric services;

(c) Family planning services listed and as limited in 907 KAR 1:048;

(d) Home health services listed and as limited in 907 KAR 1:030,;

(e) Social services counseling;

(f) Pharmacy services which shall meet the coverage criteria established in 907 KAR 1:019;

(g) Nutritional services provided by a nutritionist, including individual counseling relating to nutritional problems or nutritional education or group nutritional services; or

(h) Nurse midwifery services which shall be provided:

1. As a program including prenatal services to expectant mothers, delivery or postnatal services; and

2. By a nurse midwife.

(3) The department shall cover, and a primary care center may provide the following services:

(a) Excluding institutional care, other state plan services;

(b) Holding or observation accommodations;

(c) Outreach services provided as a package structured to identify health care needs in the service area;

(d) Clinical pharmacist services; or

~~(e) [Behavioral health services provided by a clinical psychologist, licensed clinical social worker, or advanced registered nurse practitioner within the provider's legally authorized scope of service;~~

~~(f)] Services or supplies furnished as an incident to services provided by a physician, physician assistant, advanced practice registered nurse[practitioner], or nurse midwife if the service or supply meets the criteria established in 42 C.F.R. 405.2413 or 42 C.F.R. 405.2415[; or~~

~~(g) Services or supplies incidental to a clinical psychologist's or licensed clinical social worker's behavioral health services if the service or supply meets the criteria established in 42 C.F.R.]~~

Section 3. Federally-qualified Health Center and Federally-Qualified Health Center Look-alike Covered Services Other Than Behavioral Health Services. A federally-qualified health center shall provide:

- 1 (1) Federally-qualified health center services pursuant to 42 U.S.C. 1395x(aa)(3);  
2 (2) Federally-qualified health center services pursuant to 42 U.S.C. 1396d(l)(2)(A);  
3 (3) Other Medicaid-covered ambulatory outpatient services established in the state plan;  
4 or  
5 (4) Any combination of the services described in subsections (1), (2), and (3) of this sec-  
6 tion.

7 Section 4. Primary Care Center, Federally-Qualified Health Center, and Federally-  
8 Qualified Health Center Look-alike Covered Behavioral Health Services. (1) Except as  
9 specified in the requirements stated for a given service, the services covered may be pro-  
10 vided for a:

- 11 (a) Mental health disorder;  
12 (b) Substance use disorder; or  
13 (c) Co-occurring mental health and substance use disorder.

14 (2) The department shall cover - and a primary care center, federally-qualified health  
15 care center, or federally-qualified health center look-alike may provide - the following ser-  
16 vices:

17 (a) Behavioral health services provided by a clinical psychologist, licensed clinical social  
18 worker, or advanced registered nurse practitioner within the provider's legally authorized  
19 scope of service; or

20 (b) Services or supplies incidental to a clinical psychologist's or licensed clinical social  
21 worker's behavioral health services if the service or supply meets the criteria established in  
22 42 C.F.R.

23 (3) In addition to the services referenced in subsection (2) of this section, the following  
24 behavioral health services provided by a primary care center, federally-qualified health cen-



ter, or federally-qualified health center look-alike shall be covered under this administrative regulation in according with the corresponding following requirements:

(a) A screening provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service; or

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

(b) An assessment provided by:

- 1     1. A licensed psychologist;
- 2     2. A licensed professional clinical counselor;
- 3     3. A licensed clinical social worker;
- 4     4. A licensed marriage and family therapist;
- 5     5. A physician;
- 6     6. A psychiatrist;
- 7     7. An advanced practice registered nurse;
- 8     8. A licensed psychological practitioner;
- 9     9. A licensed psychological associate working under the supervision of a licensed psy-
- 10    chologist if the licensed psychologist is the billing provider for the service;
- 11    10. A licensed professional counselor associate working under the supervision of a
- 12    licensed professional clinical counselor if the licensed professional clinical counselor
- 13    is the billing provider for the service;
- 14    11. A certified social worker working under the supervision of a licensed clinical social
- 15    worker if the licensed clinical social worker is the billing provider for the service;
- 16    12. A marriage and family therapy associate working under the supervision of a
- 17    licensed marriage and family therapist if the licensed marriage and family therapist
- 18    is the billing provider for the service; or
- 19    13. A physician assistant working under the supervision of a physician if the physician is
- 20    the billing provider for the service;
- 21    (c) Psychological testing provided by:
- 22    1. A licensed psychologist;
- 23    2. A licensed psychological practitioner; or
- 24    3. A licensed psychological associate working under the supervision of a licensed

psychologist if the licensed psychologist is the billing provider for the service;

(d) Crisis intervention provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service; or

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. A peer support specialist working under the supervision of a mental health professional;

1 15. A family peer support specialist working under the supervision of a mental health  
2 professional; or

3 16. A youth peer support specialist working under the supervision of a mental health pro-  
4 fessional;

5 (e) Service planning provided by:

6 1. A licensed psychologist;

7 2. A licensed professional clinical counselor;

8 3. A licensed clinical social worker;

9 4. A licensed marriage and family therapist;

10 5. A physician;

11 6. A psychiatrist;

12 7. An advanced practice registered nurse;

13 8. A licensed psychological practitioner;

14 9. A licensed psychological associate working under the supervision of a licensed psy-  
15 chologist if the licensed psychologist is the billing provider for the service;

16 10. A licensed professional counselor associate working under the supervision of a  
17 licensed professional clinical counselor if the licensed professional clinical counselor  
18 is the billing provider for the service;

19 11. A certified social worker working under the supervision of a licensed clinical  
20 social worker if the licensed clinical social worker is the billing provider for the service;

21 12. A marriage and family therapy associate working under the supervision of a  
22 Licensed marriage and family therapist if the licensed marriage and family therapist  
23 is the billing provider for the service; or

24 13. A physician assistant working under the supervision of a physician if the physician is

the billing provider for the service;

(f) Individual outpatient therapy provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service; or

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

(g) Family outpatient therapy provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;
  3. A licensed clinical social worker;
  4. A licensed marriage and family therapist;
  5. A physician;
  6. A psychiatrist;
  7. An advanced practice registered nurse;
  8. A licensed psychological practitioner;
  9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;
  10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;
  11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;
  12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service; or
  13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;
- (h) Group outpatient therapy provided by:
1. A licensed psychologist;
  2. A licensed professional clinical counselor;
  3. A licensed clinical social worker;
  4. A licensed marriage and family therapist;

- 1    5. A physician;
- 2    6. A psychiatrist;
- 3    7. An advanced practice registered nurse;
- 4    8. A licensed psychological practitioner;
- 5    9. A licensed psychological associate working under the supervision of a licensed psy-
- 6    chologist if the licensed psychologist is the billing provider for the service;
- 7    10. A licensed professional counselor associate working under the supervision of a
- 8    licensed professional clinical counselor if the licensed professional clinical counselor
- 9    is the billing provider for the service;
- 10   11. A certified social worker working under the supervision of a licensed clinical social
- 11   worker if the licensed clinical social worker is the billing provider for the service;
- 12   12. A marriage and family therapy associate working under the supervision of a li-
- 13   censed marriage and family therapist if the licensed marriage and family therapist is the
- 14   billing provider for the service; or
- 15   13. A physician assistant working under the supervision of a physician if the physician is
- 16   the billing provider for the service;
- 17   (i) Collateral outpatient therapy provided by:
- 18   1. A licensed psychologist;
- 19   2. A licensed professional clinical counselor;
- 20   3. A licensed clinical social worker;
- 21   4. A licensed marriage and family therapist;
- 22   5. A physician;
- 23   6. A psychiatrist;
- 24   7. An advanced practice registered nurse;

1 8. A licensed psychological practitioner;

2 9. A licensed psychological associate working under the supervision of a licensed psy-  
3 chologist if the licensed psychologist is the billing provider for the service;

4 10. A licensed professional counselor associate working under the supervision of a  
5 licensed professional clinical counselor if the licensed professional clinical counselor  
6 is the billing provider for the service;

7 11. A certified social worker working under the supervision of a licensed clinical social  
8 worker if the licensed clinical social worker is the billing provider for the service;

9 12. A marriage and family therapy associate working under the supervision of a li-  
10 censed marriage and family therapist if the licensed marriage and family therapist is the  
11 billing provider for the service; or

12 13. A physician assistant working under the supervision of a physician if the physician is  
13 the billing provider for the service;

14 (j) A screening, brief intervention, and referral to treatment for a substance use disorder  
15 provided by:

16 1. A licensed psychologist;

17 2. A licensed professional clinical counselor;

18 3. A licensed clinical social worker;

19 4. A licensed marriage and family therapist;

20 5. A physician;

21 6. A psychiatrist;

22 7. An advanced practice registered nurse;

23 8. A licensed psychological practitioner;

24 9. A licensed psychological associate working under the supervision of a licensed psy-



chologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service; or

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

(k) Medication assisted treatment for a substance use disorder provided by:

1. A physician; or

2. A psychiatrist;

(l) Day treatment provided by a team of at least two (2) of the following:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psy-

1 chologist if the licensed psychologist is the billing provider for the service;

2 10. A licensed professional counselor associate working under the supervision of a  
3 licensed professional clinical counselor if the licensed professional clinical counselor  
4 is the billing provider for the service;

5 11. A certified social worker working under the supervision of a licensed clinical social  
6 worker if the licensed clinical social worker is the billing provider for the service;

7 12. A marriage and family therapy associate working under the supervision of a  
8 licensed marriage and family therapist if the licensed marriage and family therapist  
9 is the billing provider for the service;

10 13. A physician assistant working under the supervision of a physician if the physician is  
11 the billing provider for the service;

12 14. Peer support specialist working under the supervision of a mental health profes-  
13 sional;

14 15. A family peer support specialist working under the supervision of a mental health  
15 professional; or

16 16. A youth peer support specialist working under the supervision of a mental health  
17 professional;

18 (m) Comprehensive community support services provided by a team of at least two (2)  
19 of the following:

20 1. A licensed psychologist;

21 2. A licensed professional clinical counselor;

22 3. A licensed clinical social worker;

23 4. A licensed marriage and family therapist;

24 5. A physician;

- 1    6. A psychiatrist;
- 2    7. An advanced practice registered nurse;
- 3    8. A licensed psychological practitioner;
- 4    9. A licensed psychological associate working under the supervision of a licensed psy-  
5 chologist if the licensed psychologist is the billing provider for the service;
- 6    10. A licensed professional counselor associate working under the supervision of a  
7 licensed professional clinical counselor if the licensed professional clinical counselor  
8 is the billing provider for the service;
- 9    11. A certified social worker working under the supervision of a licensed clinical social  
10 worker if the licensed clinical social worker is the billing provider for the service;
- 11    12. A marriage and family therapy associate working under the supervision of a  
12 licensed marriage and family therapist if the licensed marriage and family therapist  
13 is the billing provider for the service;
- 14    13. A physician assistant working under the supervision of a physician if the physician is  
15 the billing provider for the service;
- 16    14. A peer support specialist working under the supervision of a mental health profes-  
17 sional;
- 18    15. A family peer support specialist working under the supervision of a mental health  
19 professional;
- 20    16. A youth peer support specialist working under the supervision of a mental health pro-  
21 fessional; or
- 22    17. A community support associate; or
- 23    (n) Peer support provided by:
- 24    1. A peer support specialist working under the supervision of a mental health profes-

1 sional;

2 2. A family peer support specialist working under the supervision of a mental health pro-  
3 fessional; or

4 3. A youth peer support specialist working under the supervision of a mental health pro-  
5 fessional.

6 (o) Mobile crisis services provided by a team of at least two (2) of the following:

7 1. A licensed psychologist;

8 2. A licensed professional clinical counselor;

9 3. A licensed clinical social worker;

10 4. A licensed marriage and family therapist;

11 5. A physician;

12 6. A psychiatrist;

13 7. An advanced practice registered nurse;

14 8. A licensed psychological practitioner;

15 9. A licensed psychological associate working under the supervision of a licensed psy-  
16 chologist if the licensed psychologist is the billing provider for the service;

17 10. A licensed professional counselor associate working under the supervision of a  
18 licensed professional clinical counselor if the licensed professional clinical counselor  
19 is the billing provider for the service;

20 11. A certified social worker working under the supervision of a licensed clinical social  
21 worker if the licensed clinical social worker is the billing provider for the service;

22 12. A marriage and family therapy associate working under the supervision of a li-  
23 censed marriage and family therapist if the licensed marriage and family therapist is the  
24 billing provider for the service;

1     13. A physician assistant working under the supervision of a physician if the physician is  
2     the billing provider for the service;

3     14. Peer support specialist working under the supervision of a mental health profes-  
4     sional;

5     15. A family peer support specialist working under the supervision of a mental health  
6     professional; or

7     16. A youth peer support specialist working under the supervision of a mental health pro-  
8     fessional;

9     (p) Assertive community treatment provided by a team that includes at least two (2) of  
10    the following:

11    1. A licensed psychologist;

12    2. A licensed professional clinical counselor;

13    3. A licensed clinical social worker;

14    4. A licensed marriage and family therapist;

15    5. A physician;

16    6. A psychiatrist;

17    7. An advanced practice registered nurse;

18    8. A licensed psychological practitioner;

19    9. A licensed psychological associate working under the supervision of a licensed psy-  
20    chologist if the licensed psychologist is the billing provider for the service;

21    10. A licensed professional counselor associate working under the supervision of a  
22    licensed professional clinical counselor if the licensed professional clinical counselor  
23    is the billing provider for the service;

24    11. A certified social worker working under the supervision of a licensed clinical social

worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. Peer support specialist working under the supervision of a mental health professional;

15. A family peer support specialist working under the supervision of a mental health professional; or

16. A youth peer support specialist working under the supervision of a mental health professional;

(q) Intensive outpatient program provided by a team that includes at least two (2) of the following:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

1 10. A licensed professional counselor associate working under the supervision of a  
2 licensed professional clinical counselor if the licensed professional clinical counselor  
3 is the billing provider for the service;

4 11. A certified social worker working under the supervision of a licensed clinical social  
5 worker if the licensed clinical social worker is the billing provider for the service;

6 12. A marriage and family therapy associate working under the supervision of a li-  
7 censed marriage and family therapist if the licensed marriage and family therapist is the  
8 billing provider for the service;

9 13. A physician assistant working under the supervision of a physician if the physician is  
10 the billing provider for the service;

11 (r) Residential crisis stabilization provided by a team of at least two (2) of the following:

12 1. A licensed psychologist;

13 2. A licensed professional clinical counselor;

14 3. A licensed clinical social worker;

15 4. A licensed marriage and family therapist;

16 5. A physician;

17 6. A psychiatrist;

18 7. An advanced practice registered nurse;

19 8. A licensed psychological practitioner;

20 9. A licensed psychological associate working under the supervision of a licensed psy-  
21 chologist if the licensed psychologist is the billing provider for the service;

22 10. A licensed professional counselor associate working under the supervision of a  
23 licensed professional clinical counselor if the licensed professional clinical counselor  
24 is the billing provider for the service;

1 11. A certified social worker working under the supervision of a licensed clinical social  
2 worker if the licensed clinical social worker is the billing provider for the service;

3 12. A marriage and family therapy associate working under the supervision of a li-  
4 censed marriage and family therapist if the licensed marriage and family therapist is the  
5 billing provider for the service;

6 13. A physician assistant working under the supervision of a physician if the physician is  
7 the billing provider for the service;

8 14. Peer support specialist working under the supervision of a mental health profes-  
9 sional;

10 15. A family peer support specialist working under the supervision of a mental health  
11 professional; or

12 16. A youth peer support specialist working under the supervision of a mental health pro-  
13 fessional;

14 (s) Residential services for substance use disorders provided by a team of at least two  
15 (2) of the following:

16 1. A licensed psychologist;

17 2. A licensed professional clinical counselor;

18 3. A licensed clinical social worker;

19 4. A licensed marriage and family therapist;

20 5. A physician;

21 6. A psychiatrist;

22 7. An advanced practice registered nurse;

23 8. A licensed psychological practitioner;

24 9. A licensed psychological associate working under the supervision of a licensed psy-



1 chologist if the licensed psychologist is the billing provider for the service;

2 10. A licensed professional counselor associate working under the supervision of a  
3 licensed professional clinical counselor if the licensed professional clinical counselor  
4 is the billing provider for the service;

5 11. A certified social worker working under the supervision of a licensed clinical social  
6 worker if the licensed clinical social worker is the billing provider for the service;

7 12. A marriage and family therapy associate working under the supervision of a li-  
8 censed marriage and family therapist if the licensed marriage and family therapist is the  
9 billing provider for the service;

10 13. A physician assistant working under the supervision of a physician if the physician is  
11 the billing provider for the service;

12 14. Peer support specialist working under the supervision of a mental health profes-  
13 sional;

14 15. A family peer support specialist working under the supervision of a mental health  
15 professional; or

16 16. A youth peer support specialist working under the supervision of a mental health pro-  
17 fessional;

18 (t) Therapeutic rehabilitation program services provided by a team of at least two (2) of  
19 the following individuals:

20 1. A licensed psychologist;

21 2. A licensed professional clinical counselor;

22 3. A licensed clinical social worker;

23 4. A licensed marriage and family therapist;

24 5. A physician;

- 1     6. A psychiatrist;
- 2     7. An advanced practice registered nurse;
- 3     8. A licensed psychological practitioner;
- 4     9. A licensed psychological associate working under the supervision of a licensed psy-  
5 chologist if the licensed psychologist is the billing provider for the service;
- 6     10. A licensed professional counselor associate working under the supervision of a  
7 licensed professional clinical counselor if the licensed professional clinical counselor  
8 is the billing provider for the service;
- 9     11. A certified social worker working under the supervision of a licensed clinical social  
10 worker if the licensed clinical social worker is the billing provider for the service;
- 11     12. A marriage and family therapy associate working under the supervision of a  
12 licensed marriage and family therapist if the licensed marriage and family therapist  
13 is the billing provider for the service;
- 14     13. A physician assistant working under the supervision of a physician if the physician is  
15 the billing provider for the service;
- 16     14. Peer support specialist working under the supervision of a mental health profes-  
17 sional;
- 18     15. A family peer support specialist working under the supervision of a mental health  
19 professional; or
- 20     16. A youth peer support specialist working under the supervision of a mental health pro-  
21 fessional; or
- 22     (u) Parent or family peer support provided by:
- 23         1. A peer support specialist working under the supervision of a mental health profes-  
24 sional;

1       2. A family peer support specialist working under the supervision of a mental health pro-  
2 fessional; or

3       3. A youth peer support specialist working under the supervision of a mental health pro-  
4 fessional.

5       (4)(a) A screening shall:

6       1. Be the determination of the likelihood that an individual has a mental health disorder,  
7 substance use disorder, or co-occurring disorder;

8       2. Not establish the presence or specific type of disorder; and

9       3. Establish the need for an in-depth assessment.

10      (b) An assessment shall:

11      1. Include gathering information and engaging in a process with the individual that ena-  
12 bles the provider to:

13      a. Establish the presence or absence of a mental health disorder or substance use  
14 disorder;

15      b. Determine the individual's readiness for change;

16      c. Identify the individual's strengths or problem areas that may affect the treatment and  
17 recovery processes; and

18      d. Engage the individual in developing an appropriate treatment relationship;

19      2. Establish or rule out the existence of a clinic disorder or service need;

20      3. Including working with the individual to develop a treatment and service plan; and

21      4. Not include psychological or psychiatric evaluations or assessments.

22      (c) Psychological testing shall include:

23      1. A psychodiagnostic assessment of personality, psychopathology, emotionality, or in-  
24 tellectual disabilities; and

1 2. Interpretation and a written report of testing results.

2 (d) Crisis intervention:

3 1. Shall be a therapeutic intervention for the purpose of immediately reducing or elimi-  
4 nating the risk of physical or emotional harm to:

5 a. The recipient; or

6 b. Another individual;

7 2. Shall consist of clinical intervention and support services necessary to provide inte-  
8 grated crisis response, crisis stabilization interventions, or crisis prevention activities for  
9 individuals with behavioral health disorders;

10 3. Shall be provided:

11 a. In an office, home, or community setting where the individual is experiencing the cri-  
12 sis;

13 b. As an immediate relief to the presenting problem or threat; and

14 c. In a face-to-face, one (1)-on-one (1) encounter between the provider and the recipient;

15 4. May include verbal de-escalation, risk assessment, or cognitive therapy; and

16 5. Shall be followed by a referral to non-crisis services if applicable.

17 (e)1. Service planning shall consist of assisting a recipient in creating an individualized  
18 plan for services needed to maintain functional stability or return to stability as soon as  
19 possible in order to avoid out-of-home care.

20 2. A service plan:

21 a. Shall be directed by the recipient; and

22 b. May include:

23 (i) A mental health advance directive being filed with a local hospital;

24 (ii) A crisis plan; or

- (iii) A relapse prevention strategy or plan.
- (f) Individual outpatient therapy shall:
1. Be provided to promote the:
    - a. Health and wellbeing of the individual; or
    - b. Recovery from a substance related disorder;
  2. Consist of:
    - a. A face-to-face, one (1)-on-one (1) encounter between the provider and recipient; and
    - b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;
  3. Be aimed at:
    - a. Reducing adverse symptoms;
    - b. Reducing or eliminating the presenting problem of the recipient; and
    - c. Improving functioning; and
  4. Not exceed three (3) hours per day.
- (g)1. Family outpatient therapy shall consist of a face-to-face behavioral health therapeutic intervention provided:
- a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and
  - b. To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment.
2. A family outpatient therapy session shall be billed as one (1) service regardless of the number of individuals [including multiple members from one (1) family] who participate in the session.
- (h)1. Group outpatient therapy shall:

- a. Be provided to promote the:
  - (i) Health and wellbeing of the individual; or
  - (ii) Recovery from a substance related disorder;
- b. Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;
- c. Be provided to a recipient in a group setting:
  - (i) Of non-related individuals; and
  - (ii) Not to exceed eight (8) individuals in size;
- d. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;
- e. Not include physical exercise, a recreational activity, an educational activity, or a social activity; and
- f. Not exceed three (3) hours per day.
2. The group shall have a:
  - a. Deliberate focus; and
  - b. Defined course of treatment.
3. The subject of a group receiving group outpatient therapy shall be related to each recipient participating in the group.
4. The provider shall keep individual notes regarding each recipient within the group and within each recipient's health record.
- (i) 1. Collateral outpatient therapy shall:
  - a. Consist of a face-to-face behavioral health consultation:
    - (i) With a parent or caregiver of a recipient, household member of a recipient, legal representative of a recipient, school personnel, treating professional, or other person with cus-

todial control or supervision of the recipient; and

(ii) That is provided in accordance with the recipient's treatment plan; and

b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21) years of age.

2. Consent to discuss a recipient's treatment with any person other than a parent or legal guardian shall be signed and filed in the recipient's health record.

(j) Screening, brief intervention, and referral to treatment for a substance use disorder shall:

1. Be an evidence-based early intervention approach for an individual with non-dependent substance use to provide an effective strategy for intervention prior to the need for more extensive or specialized treatment; and

2. Consist of:

a. Using a standardized screening tool to assessing an individual for risky substance use behavior;

b. Engaging a recipient, who demonstrates risky substance use behavior, in a short conversation and providing feedback and advice; and

c. Referring a recipient to:

(i) Therapy; or

(ii) Other additional services to address substance use if the recipient is determined to need other additional services.

(k) Medication assisted treatment for a substance use disorder:

1. Shall include:

a. Any opioid addiction treatment that includes a United States Food and Drug

Administration-approved medication for the detoxification or maintenance treatment of

opioid addiction along with counseling or other supports;

b. Comprehensive maintenance;

c. Medical maintenance;

d. Interim maintenance;

e. Detoxification; or

f. Medically supervised withdrawal;

2. May be provided in:

a. An opioid treatment program;

b. A medication unit affiliated with an opioid treatment program;

c. A physician's office; or

d. Other community setting; and

3. Shall increase the likelihood for cessation of illicit opioid use or prescription opioid abuse.

(l)1. Day treatment shall be a non-residential, intensive treatment program designed for a child under the age of twenty-one (21) years who has:

a. An emotional disability or neurobiological or substance use disorder; and

b. A high risk of out-of-home placement due to a behavioral health issue.

2. Day treatment services shall:

a. Consist of an organized, behavioral health program of treatment and rehabilitative services (substance use disorder, mental health, or co-occurring mental health and substance use disorder);

b. Have unified policies and procedures that:

(i) Address the program philosophy, admission and discharge criteria, admission and discharge process, staff training, and integrated case planning; and



1 (ii) Have been approved by the recipient's local education authority and the day treat-  
2 ment provider;

3 c. Include:

4 (i) Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;

5 (ii) Behavior management and social skill training;

6 (iii) Independent living skills that correlate to the age and development stage of the re-  
7 ipient; or

8 (iv) Services designed to explore and link with community resources before discharge  
9 and to assist the recipient and family with transition to community services after discharge;  
10 and

11 d. Be provided:

12 (i) In collaboration with the education services of the local education authority including  
13 those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act)  
14 or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

15 (ii) On school days and during scheduled breaks;

16 (iii) In coordination with the recipient's individual educational plan if the recipient has an  
17 individual educational plan;

18 (iv) Under the supervision of a licensed or certified behavioral health practitioner or a  
19 behavioral health practitioner working under clinical supervision; and

20 (v) With a linkage agreement with the local education authority that specifies the respon-  
21 sibilities of the local education authority and the day treatment provider.

22 3. To provide day treatment services, an FQHC, an FQHC look-alike, or a PCC shall  
23 have:

24 a. The capacity to employ staff authorized to provide day treatment services in accord-

ance with subsection (3)(l) of this section and to coordinate the provision of services among team members;

b. The capacity to provide the full range of residential crisis stabilization services as stated in subparagraph 1 of this paragraph;

c. Demonstrated experience in serving individuals with behavioral health disorders;

d. The administrative capacity to ensure quality of services;

e. A financial management system that provides documentation of services and costs;

f. The capacity to document and maintain individual case records; and

g. Knowledge of substance use disorders.

4. Day treatment shall not include a therapeutic clinical service that is included in a child's individualized education plan.

(m)1. Comprehensive community support services shall:

a. Be activities necessary to allow an individual to live with maximum independence in community-integrated housing;

b. Be intended to ensure successful community living through the utilization of skills training, cueing, or supervision as identified in the recipient's treatment plan;

c. Include:

(i) Reminding a recipient to take medications and monitoring symptoms and side effects of medications; or

(ii) Teaching parenting skills, teaching community resource access and utilization, teaching emotional regulation skills, teaching crisis coping skills, teaching how to shop, teaching about transportation, teaching financial management, or developing and enhancing interpersonal skills; and

c. Meet the requirements for comprehensive community support services established

1 in 908 KAR 2:250.

2 3. To provide comprehensive community support services, an FQHC, an FQHC look-  
3 alike, or a PCC shall have:

4 a. The capacity to employ staff authorized to provide comprehensive community support  
5 services in accordance with subsection (3)(m) of this section and to coordinate the provi-  
6 sion of services among team members;

7 b. The capacity to provide the full range of comprehensive community support services  
8 as stated in this subparagraph 1 of this paragraph;

9 c. Demonstrated experience in serving individuals with behavioral health disorders;

10 d. The administrative capacity to ensure quality of services;

11 e. A financial management system that provides documentation of services and costs;  
12 and

13 f. The capacity to document and maintain individual case records.

14 (n)1. Peer support services shall:

15 a. Be social and emotional support that is provided by an individual who is experiencing  
16 a mental health disorder, substance use disorder, or co-occurring mental health and sub-  
17 stance use disorder to a recipient by sharing a similar mental health disorder, substance  
18 use disorder, or co-occurring mental health and substance use disorder in order to bring  
19 about a desired social or personal change;

20 b. Be an evidence-based practice;

21 c. Be structured and scheduled non-clinical therapeutic activities with an individual recip-  
22 ient or a group of recipients;

23 d. Be provided by a self-identified consumer or parent or family member of a child  
24 consumer of mental health disorder services, substance use disorder services, or co-

occurring mental health disorder services and substance use disorder services who has been trained and certified in accordance with 908 KAR 2:220;

e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient; and

f. Be identified in each recipient's treatment plan.

2. To provide peer support services an FQHC, an FQHC look-alike, or a PCC shall:

a. Have demonstrated the capacity to provide the core elements of peer support services for the behavioral health population being served including the age range of the population being served;

b. Employ peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220;

c. Use a qualified mental health professional to supervise peer support specialists;

d. Have the capacity to employ staff authorized to provide comprehensive community support services in accordance with subsection (3)(n) of this section and to coordinate the provision of services among team members;

e. Have the capacity to provide the full range of comprehensive community support services as stated in this subparagraph 1 of this paragraph;

f. Have demonstrated experience in serving individuals with behavioral health disorders;

g. Have the administrative capacity to ensure quality of services;

h. Have a financial management system that provides documentation of services and costs; and

i. Have the capacity to document and maintain individual case records.

(o)1. Mobile crisis services shall:

a. Be available twenty-four (24) hour a day, seven (7) day a week, every day of the year;

1 and

2 b. Be a crisis response in a home or community setting to provide an immediate evalua-  
3 tion, triage, and access to acute substance use disorder services including treatment and  
4 supports to:

5 (i) Reduce symptoms or harm; or

6 (ii) Safely transition an individual in an acute crisis to appropriate crisis stabilization and  
7 detoxification supports or services.

8 2. To provide mobile crisis services, an FQHC, an FQHC look-alike, or a PCC shall  
9 have:

10 a. The capacity to employ staff authorized to provide day treatment services in accord-  
11 ance with subsection (3)(l) of this section and to coordinate the provision of services  
12 among team members;

13 b. The capacity to provide the full range of residential crisis stabilization services as  
14 stated in this paragraph and on a twenty-four (24) hour a day, seven (7) day a week, every  
15 day of the year basis;

16 c. Access to a board certified or board-eligible psychiatrist twenty-four (24) hours a day,  
17 seven (7) days a week, every day of the year;

18 d. Demonstrated experience in serving individuals with behavioral health disorders;

19 e. The administrative capacity to ensure quality of services;

20 f. A financial management system that provides documentation of services and costs;

21 g. The capacity to document and maintain individual case records; and

22 h. Knowledge of substance use disorders.

23 (p)1. Assertive community treatment shall:

24 a. Be an evidence-based psychiatric rehabilitation practice which provides a compre-

hensive approach to service delivery for individuals with a serious mental illness;

b. Use a multidisciplinary team of at least two (2) of the following professionals:

(i) A psychiatrist;

(ii) A nurse;

(iii) A case manager; or

(iv) A therapist; and

c. Include:

(i) Assessment;

(ii) Treatment planning;

(iii) Case management;

(iv) Psychiatric services;

(v) Medication management administration;

(vi) Individual outpatient therapy;

(vii) Family outpatient therapy;

(viii) Group outpatient therapy;

(ix) Mobile crisis intervention;

(x) Mental health consultation; or

(xi) Family support and basic living skills.

2. To provide assertive community treatment services, an FQHC, an FQHC look-alike, or a PCC shall:

a. Employ one (1) or more teams:

(i) Led by a qualified mental health professional; and

(ii) Comprised of at least four (4) full-time equivalents including a prescriber, a nurse, a qualified mental health professional, a case manager, or a co-occurring disorder special-

1 ist;

2 b. Have adequate staffing to ensure that no caseload size exceeds ten (10) participants  
3 per team member;

4 c. Have the capacity to employ staff authorized to provide assertive community treat-  
5 ment services in accordance with subsection (3)(p) of this section and to coordinate the  
6 provision of services among team members;

7 d. The capacity to provide the full range of assertive community treatment services as  
8 stated in this paragraph;

9 e. Demonstrated experience in serving individuals with persistent and serious mental  
10 illness who have difficulty living independently in the community;

11 f. The administrative capacity to ensure quality of services;

12 g. A financial management system that provides documentation of services and costs;  
13 and

14 h. The capacity to document and maintain individual case records.

15 (q)1. Intensive outpatient program services shall:

16 a. Be an alternative to inpatient hospitalization or partial hospitalization for a mental  
17 health or substance use disorder;

18 b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is  
19 significantly more intensive than individual outpatient therapy, group outpatient therapy, or  
20 family outpatient therapy; and

21 c. Be provided at least three (3) hours per day at least three (3) days per week; and

22 d. Include:

23 (i) Individual outpatient therapy, group outpatient therapy, or family outpatient therapy un-  
24 less contraindicated;

1     (ii) Crisis intervention; or

2     (iii) Psycho-education.

3     2. During psycho-education the recipient or family member shall be:

4     a. Provided with knowledge regarding the recipient's diagnosis, the causes of the con-  
5     dition, and the reasons why a particular treatment might be effective for reducing symp-  
6     toms; and

7     b. Taught how to cope with the recipient's diagnosis or condition in a successful man-  
8     ner.

9     3. An intensive outpatient program treatment plan shall:

10    a. Be individualized; and

11    b. Focus on stabilization and transition to a lesser level of care.

12    4. To provide intensive outpatient program services, an FQHC, an FQHC look-alike, or  
13    a PCC shall have:

14    a. Access to a board-certified or board-eligible psychiatrist for consultation;

15    b. Access to a psychiatrist, other physician, or advanced practiced registered nurse for  
16    medication management;

17    c. Adequate staffing to ensure a minimum recipient-to-staff ratio of four (4) clients to one  
18    (1) recipient;

19    d. The capacity to provide services utilizing a recognized intervention protocol based on  
20    recovery principles;

21    e. The capacity to employ staff authorized to provide intensive outpatient program ser-  
22    vices in accordance with subsection (3)(q) of this section and to coordinate the provision of  
23    services among team members;

24    f. The capacity to provide the full range of intensive outpatient program services as stat-



ed in this paragraph;

g. Demonstrated experience in serving individuals with behavioral health disorders;

h. The administrative capacity to ensure quality of services;

i. A financial management system that provides documentation of services and costs;

and

j. The capacity to document and maintain individual case records.

(r)1. Residential crisis stabilization services shall be provided in a crisis stabilization unit.

2. A crisis stabilization unit shall:

a. Be a community-based, residential program that offers an array of services including:

(i) Screening;

(ii) Assessment;

(iii) Treatment planning;

(iv) Individual outpatient therapy;

(v) Family outpatient therapy;

(vi) Group outpatient therapy; and

(vii) Psychiatric services;

b. Provide services in order to:

(i) Stabilize a crisis and divert an individual from a higher level of care;

(ii) Stabilize an individual and provide treatment for acute withdrawal, if applicable; and

(iii) Re-integrate the individual into the individual's community or other appropriate setting in a timely fashion;

c. Not be part of a hospital;

d. Be used when an individual:

1 (i) Is experiencing a behavioral health emergency that cannot be safely accommodated  
2 within the individual's community; and

3 (ii) Needs overnight care that is not hospitalization; and

4 e. Not contain more than sixteen (16) beds; and

5 f. Not be part of multiple units comprising one (1) facility with more than sixteen (16)  
6 beds in aggregate.

7 3. Residential crisis stabilization shall not include:

8 a. Room and board;

9 b. Educational services;

10 c. Vocational services;

11 d. Job training services;

12 e. Habilitation services;

13 f. Services to an inmate in a public institution pursuant to 42 C.F.R. 435.1010;

14 g. Services to an individual residing in an institution for mental diseases pursuant to 42  
15 C.F.R. 435.1010;

16 h. Recreational activities;

17 i. Social activities; or

18 j. Services required to be covered elsewhere in the state plan.

19 4. To provide residential crisis stabilization services, an FQHC, an FQHC look-alike, or  
20 a PCC shall have:

21 a. The capacity to employ staff authorized to provide day treatment services in accord-  
22 ance with subsection (3)(l) of this section and to coordinate the provision of services  
23 among team members;

24 b. The capacity to provide the full range of residential crisis stabilization services as

1 stated in this paragraph and on a services twenty-four (24) hour a day, seven (7) day a  
2 week, every day of the year basis;

3 c. Access to a board certified or board-eligible psychiatrist twenty-four (24) hours a day,  
4 seven (7) days a week, every day of the year;

5 d. Demonstrated experience in serving individuals with behavioral health disorders;

6 e. The administrative capacity to ensure the quality of services;

7 f. A financial management system that provides documentation of services and costs;

8 g. The capacity to document and maintain individual case records; and

9 h. Knowledge of substance use disorders.

10 (s)1. Residential services for substance use disorders shall:

11 a. Be provided in twenty-four (24) hour per day units;

12 b. Be short or long term to provide intensive treatment and skills building in a structured  
13 and supportive environment;

14 c. Assist an individual in abstaining from alcohol or substance use and in entering alco-  
15 hol or drug addiction recovery;

16 d. Be provided in a twenty-four (24) hour a day, live-in facility that offers a planned and  
17 structured regimen of care aimed to treat individuals with addiction or co-occurring mental  
18 health and substance use disorders;

19 e. Assist a recipient in making necessary changes in the recipient's life to enable the  
20 recipient to live drug- or alcohol-free;

21 f. Lasts less than thirty (30) days;

22 g. Be provided under the medical direction of a physician;

23 h. Provide continuous nursing services;

24 i. Be based on individual need and may include:

1 (i) Screening;

2 (ii) Assessment;

3 (iii) Service planning;

4 (iv) Individual outpatient therapy;

5 (v) Group outpatient therapy; or

6 (vi) Family outpatient therapy; and

7 j. Be provided in accordance with 908 KAR 1:370.

8 2. A residential service for substance use disorder building shall have more than eight

9 (8) but less than seventeen (17) beds.

10 3. A short-term length-of-stay for residential services for substance use disorders shall:

11 a. Be between fourteen (14) and twenty-eight (28) days in duration;

12 b. Include planned clinical program activities constituting at least fifteen (15) hours per  
13 week of structured professionally-directed treatment activities to:

14 (i) Stabilize and maintain a person's substance use disorder; and

15 (ii) Help the recipient develop and apply recovery skills; and

16 c. May include the services listed in subparagraph 1.i. of this paragraph.

17 4. A long-term length-of-stay for residential services for substance use disorders shall:

18 a. Be between twenty-eight (28) days and ninety (90) days in duration;

19 b. Include planned clinical program activities constituting at least forty (40) hours per  
20 week of structured professionally-directed treatment activities to:

21 (i) Stabilize and maintain a person's substance use disorder; and

22 (ii) Help the recipient develop and apply recovery skills; and

23 c. May include the services listed in subparagraph 1.i. of this paragraph.

24 5. Residential services for a substance use disorder shall not include:

- a. Room and board;
- b. Educational services;
- c. Vocational services;
- d. Job training services;
- e. Habilitation services;
- f. Services to an inmate in a public institution pursuant to 42 C.F.R. 435.1010;
- g. Services to an individual residing in an institution for mental diseases pursuant to 42 C.F.R. 435.1010;
- h. Recreational activities;
- i. Social activities; or
- j. Services required to be covered elsewhere in the state plan.

6. The physical structure in which residential services for a substance use disorder are provided shall not:

- a. Contain more than sixteen (16) beds; and
- b. Be part of multiple units comprising one (1) facility with more than sixteen (16) beds in aggregate.

7. To provide residential services for a substance use disorder, an FQHC, an FQHC look-alike, or a PCC shall:

- a. Have the capacity to employ staff authorized to provide day treatment services in accordance with subsection (2)(l) of this section and to coordinate the provision of services among team members;
- b. Have the capacity to provide the full range of residential services for a substance use disorder as stated in this paragraph;
- c. Have demonstrated experience in serving individuals with behavioral health disor-

1 ders;

2 d. Have the administrative capacity to ensure quality of services;

3 e. Have a financial management system that provides documentation of services and

4 costs;

5 f. Have the capacity to document and maintain individual case records; and

6 g. Be licensed as a non-medical and non-hospital based alcohol and other drug abuse  
7 treatment program in accordance with 908 KAR 1:370.

8 (t)1. Therapeutic rehabilitation program services shall:

9 a. Occur at the provider's site or in the community;

10 b. Be provided to an adult with a severe mental illness or to a child [under the age of  
11 twenty-one (21) years] to enhance skills and offer experiential learning opportunities that  
12 are aligned with treatment goals and recovery principles;

13 c. Not be a residential program; and

14 d. Be a day program based on the Fountain House clubhouse model of psychosocial  
15 rehabilitation for individuals with a serious mental illness.

16 2. To provide therapeutic rehabilitation program services an FQHC, an FQHC look-  
17 alike, or a PCC shall:

18 a. Have the capacity to employ staff authorized to provide therapeutic rehabilitation pro-  
19 gram services in accordance with subsection (3)(q) of this section and to coordinate the  
20 provision of services among team members;

21 b. Have the capacity to provide the full range of therapeutic rehabilitation program ser-  
22 vices as stated in this paragraph;

23 c. Have demonstrated experience in serving individuals with mental health disorders;

24 d. Have the administrative capacity to ensure quality of services;

1 e. Have a financial management system that provides documentation of services and  
2 costs; and

3 f. Have the capacity to document and maintain individual case records.

4 (u)1. Parent or family peer support services shall:

5 a. Be emotional support that is provided by a parent or family member of a child who is  
6 experiencing a mental health disorder, substance use disorder, or co-occurring mental  
7 health and substance use disorder to a parent or family member with a child sharing a  
8 similar mental health disorder, substance use disorder, or co-occurring mental health and  
9 substance use disorder in order to bring about a desired social or personal change;

10 b. Be an evidence-based practice;

11 c. Be structured and scheduled non-clinical therapeutic activities with an individual recip-  
12 ient or a group of recipients;

13 d. Be provided by a self-identified parent or family member of a child consumer of  
14 mental health disorder services, substance use disorder services, or co-occurring mental  
15 health disorder services and substance use disorder services who has been trained and  
16 certified in accordance with 908 KAR 2:230;

17 e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of  
18 community living skills for the recipient; and

19 f. Be identified in each recipient's treatment plan.

20 2. To provide parent or family peer support services a provider shall:

21 a. Have demonstrated the capacity to provide the core elements of parent or family peer  
22 support services for the behavioral health population being served including the age range  
23 of the population being served;

24 b. Employ family peer support specialists who are qualified to provide family peer sup-

1 port services in accordance with 908 KAR 2:230;

2 c. Use a qualified mental health professional to supervise family peer support special-  
3 ists;

4 d. Have the capacity to employ staff authorized to provide comprehensive community  
5 support services in accordance with subsection (2)(n) of this section and to coordinate the  
6 provision of services among team members;

7 e. Have the capacity to provide the full range of comprehensive community support ser-  
8 vices as stated in this subparagraph 1 of this paragraph;

9 f. Have demonstrated experience in serving individuals with behavioral health disorders;

10 g. Have the administrative capacity to ensure quality of services;

11 h. Have a financial management system that provides documentation of services and  
12 costs; and

13 i. Have the capacity to document and maintain individual case records.

14 (5)(a) The following requirements shall apply to any provider of a service to a recipient  
15 for a substance use disorder or co-occurring mental health disorder and substance use  
16 disorder:

17 1. The licensing requirements established in 908 KAR 1:370;

18 2. The physical plant requirements established in 908 KAR 1:370;

19 3. The organization and administration requirements established in 908 KAR 1:370;

20 4. The personnel policy requirements established in 908 KAR 1:370;

21 5. The quality assurance requirements established in 908 KAR 1:370;

22 6. The clinical staff requirements established in 908 KAR 1:370;

23 7. The program operational requirements established in 908 KAR 1:370; and

24 8. The outpatient program requirements established in 908 KAR 1:370.



1     (b) The detoxification program requirements established in 908 KAR 1:370 shall apply  
2     to a provider of a detoxification service.

3     (6) The extent and type of assessment performed at the time of a screening shall de-  
4     pend upon the problem of the individual seeking or being referred for services.

5     (7) A diagnosis or clinic impression shall be made using terminology established in the  
6     most current edition of the American Psychiatric Association Diagnostic and Statistical  
7     Manual of Mental Disorders.

8     (8)(a) Direct contact between a provider or practitioner and a recipient shall be required  
9     for each service except for a collateral service for a child under the age of twenty-one (21)  
10    years if the collateral service is in the child's plan of care.

11    (b) A service that does not meet the requirement in paragraph (a) of this subsection  
12    shall not be covered.

13    (9) A billable unit of service shall be actual time spent delivering a service in a face-to-  
14    face encounter.

15    (10) A service shall be:

16    (a) Stated in a recipient's treatment plan; and

17    (b) Provided in accordance with a recipient's treatment plan;

18    (c) Provided on a regularly scheduled basis except for a screening or assessment; and

19    (d) Made available on a non-scheduled basis if necessary during a crisis or time of  
20    increased stress for the recipient.

21    (11) The following services or activities shall not be covered under this administrative  
22    regulation:

23    (a) A behavioral health service provided to:

24    1. A resident of:

1 a. A nursing facility; or

2 b. An intermediate care facility for individuals with an intellectual disability;

3 2. An inmate of a federal, local, or state:

4 a. Jail;

5 b. Detention center; or

6 c. Prison;

7 3. An individual with an intellectual disability without documentation of an additional psy-  
8 chiatric diagnosis;

9 (b) Psychiatric or psychological testing for another agency, including a court or school,  
10 that does not result in the individual receiving psychiatric intervention or behavioral health  
11 therapy from the independent provider;

12 (c) A consultation or educational service provided to a recipient or to others;

13 (d) Collateral outpatient therapy for an individual aged twenty-one (21) years or older;

14 (e) A telephone call, an email, a text message, or other electronic contact that does not  
15 meet the requirements stated in the definition of “face-to-face”;

16 (f) Travel time;

17 (g) A field trip;

18 (h) A recreational activity;

19 (i) A social activity; or

20 (j) A physical exercise activity group.

21 (12)(a) A consultation by one (1) provider or professional with another shall not be cov-  
22 ered under this administrative regulation except as specified in Section 2(2)(k).

23 (b) A third party contract shall not be covered under this administrative regulation.

24 Section 6. Drugs for Specified Immunizations. The Cabinet for Health and Family Ser-

vices shall provide free, upon request, drugs necessary for the following immunizations:

(1) Diphtheria and tetanus toxoids and pertussis vaccine (DPT);

(2) Measles, mumps, and rubella virus vaccine live (MMR);

(3) Poliovirus vaccine, live, oral, any type (OPV); or

(4) Hemophilus B conjugate vaccine (HBCV).

Section 7.[5.] Coverage Limits. (1)(a) Except as established in subsection (2) of this section, pharmacy service coverage shall be limited to drugs covered pursuant to 907 KAR 1:019.

(b) A drug or biological not covered through the department's pharmacy program shall be covered if necessary for treatment of an emergency condition.

(2) Laboratory service coverage shall be limited to:

(a) Services provided directly by a PCC, an FQHC, or an FQHC look-alike; or

(b) If purchased, other laboratory services covered pursuant to 907 KAR 1:028.

(3) Dental service coverage shall be limited to dental service coverage pursuant to 907 KAR 1:026.

(4) Vision service coverage shall be limited to vision service coverage pursuant to 907 KAR 1:038.

(5) Audiology service coverage shall be limited to hearing service coverage pursuant to 907 KAR 1:038.

(6) An abortion or sterilization service shall be:

(a) Allowed in accordance with:

1. 42 C.F.R.441, Subpart E or Subpart F; and

2. KRS 205.010(3), 205.510(5), and 212.275(3); and

(b) Covered within the scope and limitations of federal law, federal regulations, and

1 state law.

2 (7) Durable medical good and prosthetic coverage shall be limited to durable medical  
3 good or prosthetic coverage pursuant to 907 KAR 1:479 or 907 KAR 1:030.

4 (8) A holding or observation accommodation shall be covered:

5 (a) For no more than twenty-four (24) hours; and

6 (b) If:

7 1. The recipient's medical record:

8 a. Documents the appropriateness of the holding or observation accommodation; and

9 b. Contains a statement of conditions observed and treatment rendered during the hold-  
10 ing time;

11 2. A physician:

12 a. Determines that the holding or observation accommodation is necessary; and

13 b. Is on call at all times when a recipient is held beyond the regularly scheduled hours of  
14 the center; and

15 3. A licensed nurse is on duty during the time the recipient patient remains beyond regu-  
16 larly-scheduled hours.

17 (9) A radiology procedure shall be covered if provided by a licensed practitioner of the  
18 healing arts or by an individual holding a valid certificate to operate sources of radiation.

19 Section 8.[6:] Noncovered Services. The following services shall not be covered as  
20 PCC, ~~[or]~~ FQHC, or FQHC look-alike services:

21 (1) Services provided in a hospital as defined in 42 U.S.C. 1395x(e);

22 (2) Institutional services;

23 (3) Housekeeping, babysitting, or other similar homemaker services; ~~[or]~~

24 (4) Services which are not provided in accordance with restrictions imposed by law or

administrative regulation;

(5) A behavioral health service provided to:

(a) A resident of:

1. A nursing facility; or

2. An intermediate care facility for individuals with an intellectual disability;

(b) An inmate of a federal, local, or state:

1. Jail;

2. Detention center; or

3. Prison; or

(c) An individual with an intellectual disability without documentation of an additional psychiatric diagnosis;

(6) Psychiatric or psychological testing for another agency, including a court or school, that does not result in the individual receiving psychiatric intervention or behavioral health therapy from the independent provider;

(7) A consultation or educational service provided to a recipient or to others;

(8) Collateral outpatient therapy for an individual aged twenty-one (21) years or older;

(9) A telephone call, an email, a text message, or other electronic contact that does not meet the requirements stated in the definition of “face-to-face”;

(10) Travel time;

(11) A field trip;

(12) A recreational activity;

(13) A social activity; or

(14) A physical exercise activity group.

(15)(a) A consultation by one (1) provider or professional with another shall not be cov-

1 ered under this administrative regulation except as specified in Section 2(2)(k).

2 (b) A third party contract shall not be covered under this administrative regulation.

3 Section 9. Medical Necessity Requirement. To be covered pursuant to this administra-  
4 tive regulation a service shall be:

5 (1) Medically necessary for the recipient; and

6 (2) Provided to a recipient.

7 Section 10. No Duplication of Service. (1) The department shall not reimburse for a ser-  
8 vice provided to a recipient by more than one (1) provider, of any program in which the ser-  
9 vice is covered, during the same time period.

10 (2) For example, if a recipient is receiving a service from an independent mental health  
11 service provider, the department shall not reimburse for the same service provided to the  
12 same recipient during the same time period by a primary care center.

13 Section 11. Protection, Security and Records Maintenance Requirements for All Ser-  
14 vices. (1)(a) A provider shall maintain a current health record for each recipient.

15 (b)1. A health record shall document each service provided to the recipient including the  
16 date of the service and the signature of the individual who provided the service.

17 2. The individual who provided the service shall date and sign the health record on  
18 the date that the individual provided the service.

19 (2)(a) Except as established in paragraph (b) of this subsection, a provider shall main-  
20 tain a health record regarding a recipient for at least five (5) years from the date of the ser-  
21 vice or until any audit dispute or issue is resolved beyond five (5) years.

22 (b) If the Secretary of the United States Department of Health and Human Services re-  
23 quires a longer document retention period than the period referenced in paragraph (a) of  
24 this section, pursuant to 42 CFR 431.17, the period established by the secretary shall be

1 the required period.

2 (3)(a) A provider shall comply with 45 Chapter 164.

3 (b) All information contained in a health record shall:

4 1. Be treated as confidential;

5 2. Not be disclosed to an unauthorized individual; and

6 3. If requested, be disclosed to an authorized representative of:

7 a. The department; or

8 b. Federal government.

9 (c)1. Upon request, a provider shall provide to an authorized representative of the de-  
10 partment or federal government information requested to substantiate:

11 a. Staff notes detailing a service that was rendered;

12 b. The professional who rendered a service;

13 c. The type of service rendered and any other requested information necessary to de-  
14 termine, on an individual basis, whether the service is reimbursable by the department.

15 2. Failure to provide information referenced in subparagraph 1 of this paragraph shall  
16 result in denial of payment for any service associated with the requested information.

17 Section 12. Documentation and Records Maintenance Requirements for Behavioral  
18 Health Services. (1) The requirements in this section shall apply to health records associ-  
19 ated with behavioral health services.

20 (2) A health record shall:

21 (a) Include:

22 1. An identification and intake record including:

23 a. Name;

24 b. Social Security Number;

- 1     c. Date of intake;
- 2     d. Home (legal) address;
- 3     e. Health insurance information;
- 4     f. Referral source and address of referral source;
- 5     g. Primary care physician and address;
- 6     h. The reason the individual is seeking help including the presenting problem and diag-
- 7     nosis; and
- 8     i. Any physical health diagnosis, if a physical health diagnosis exists for the individual,
- 9     and information regarding:
- 10     (i) Where the individual is receiving treatment for the physical health diagnosis; and
- 11     (ii) The physical health provider;
- 12     k. The name of the informant and any other information deemed necessary by the inde-
- 13     pendent provider to comply with the requirements of:
- 14     (i) This administrative regulation;
- 15     (ii) The provider's licensure board;
- 16     (iii) State law; or
- 17     (iv) Federal law;
- 18     2. Documentation of the:
- 19     a. Screening;
- 20     b. Assessment;
- 21     c. Disposition; and
- 22     d. Six (6) month review of a recipient's treatment plan each time a six (6) month review
- 23     occurs; and
- 24     3. A complete history including mental status and previous treatment;



1 4. An identification sheet;

2 5. A consent for treatment sheet that is accurately signed and dated; and

3 6. The individual's stated purpose for seeking services.

4 (b) Be:

5 1. Maintained in an organized central file;

6 2. Furnished to the Cabinet for Health and Family Services upon request;

7 3. Made available for inspection and copying by Cabinet for Health and Family Ser-  
8 vices' personnel;

9 4. Readily accessible;

10 5. Adequate for the purpose establishing the current treatment modality and progress of  
11 the recipient;

12 (3) Documentation of a screening shall include:

13 (a) Information relative to the individual's stated request for services; and

14 (b) Other stated personal or health concerns if other concerns are stated.

15 (4)(a) A provider's notes regarding a recipient shall:

16 1. Be made within forty-eight (48) hours of each service visit;

17 2. Describe the:

18 a. Recipient's symptoms or behavior, reaction to treatment, and attitude;

19 b. Therapist's intervention;

20 c. Changes in the treatment plan if changes are made; and

21 d. Need for continued treatment if continued treatment is needed.

22 (b)1. Any edit to notes shall:

23 a. Clearly display the changes;

24 b. Be initialed and dated.

2. Notes shall not be erased or illegibly marked out.

(c)1. Notes recorded by a practitioner working under supervision shall be co-signed and dated by the supervising professional providing the service.

2. If services are provided by a practitioner working under supervision, there shall be a monthly supervisory note recorded by the supervision professional reflecting consultations with the practitioner working under supervision concerning the:

a. Case; and

b. Supervising professional's evaluation of the services being provided to the recipient.

(5) Immediately following a screening of a recipient, the provider shall perform a disposition related to:

(a) An appropriate diagnosis;

(b) A referral for further consultation and disposition, if applicable; and

(c)1. Termination of services and referral to an outside source for further services; or

2. Termination of services without a referral to further services.

(6)(a) A recipient's treatment plan shall be reviewed at least once every six (6) months.

(b) Any change to a recipient's treatment plan shall be documented, signed, and dated by the rendering provider.

(7)(a) Notes regarding services to a recipient shall:

1. Be organized in chronological order;

2. Dated;

3. Titled to indicate the service rendered;

4. State a starting and ending time for the service; and

5. Be recorded and signed by the rendering provider and included the professional title (for example, licensed clinical social worker) of the provider.

1 (b) Initials, typed signatures, or stamped signatures shall not be accepted.

2 (c) Telephone contacts, family collateral contacts not coverable under this administrative  
3 regulation, or other non-reimbursable contacts shall:

4 1. Be recorded in the notes; and

5 2. Not be reimbursable.

6 (8) A termination summary shall:

7 (a) Be required, upon termination of services, for each recipient who received at least  
8 three (3) service visits; and

9 (b) Contain a summary of the significant findings and events during the course of treat-  
10 ment including the:

11 1. Final assessment regarding the progress of the individual toward reaching goals and  
12 objectives established in the individual's treatment plan;

13 2. Final diagnosis of clinical impression;

14 3. Individual's condition upon termination and disposition.

15 (c) A health record relating to an individual who terminated from receiving services shall  
16 be fully completed within ten (10) days following termination.

17 (9) If an individual's case is reopened within ninety (90) days of terminating services for  
18 the same or related issue, a reference to the prior case history with a note regarding the  
19 interval period shall be acceptable.

20 (10) If a recipient is transferred or referred to a health care facility or other provider for  
21 care or treatment, the transferring provider shall, if the recipient gives the provider written  
22 consent to do so, forward a copy or summary of the recipient's health record to the health  
23 care facility or other provider who is receiving the recipient.

24 (11)(a) If a provider's Medicaid Program participation status changes as a result of vol-

untarily terminating from the Medicaid Program, involuntarily terminating from the Medicaid Program, a licensure suspension, or death of the provider, the health records of the provider shall:

1. Remain the property of the provider; and

2. Be subject to the retention requirements established in subsection (13) of this section.

(b) A provider shall have a written plan addressing how to maintain health records in the event of the provider's death.

Section 13. Medicaid Program Participation Requirements. (1)(a) A participating FQHC, FQHC look-alike, or PCC shall be currently:

1. Enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

2. Except as established in paragraph (c) of this subsection, participating in the Kentucky Medicaid program in accordance with 907 KAR 1:671.

(b) A satellite facility of an FQHC, an FQHC look-alike, or a PCC shall:

1. Be currently listed on the parent facility's license in accordance with 902 KAR 20:058;

2. Comply with the requirements regarding extensions established in 902 KAR 20:058;

and

3. Comply with 907 KAR 1:671.

(c) In accordance with Section 3(3) of 907 KAR 17:010, a provider of a service to an enrollee shall not be required to be currently participating in the Medicaid Program if the managed care organization in which the enrollee is enrolled does not require the provider to be currently participating in the Medicaid Program.

(2)(a) To be initially enrolled with the department, an FQHC or FQHC look-alike shall:

1. Enroll in accordance with 907 KAR 1:672; and

2. Submit proof of its certification by the United States Department of Health and Human

1 Services, Health Resources and Services Administration as an FQHC or FQHC look-alike.

2 (b) To remain enrolled and participating in the Kentucky Medicaid program, an FQHC or  
3 FQHC look-alike shall:

4 1. Comply with the enrollment requirements established in 907 KAR 1:672;

5 2. Comply with the participation requirements established in 907 KAR 1:671; and

6 3. Annually submit proof of its certification by the United States Department of Health  
7 and Human Services, Health Resources and Services Administration as an FQHC or  
8 FQHC look-alike to the department.

9 (c) The requirements established in paragraphs (a) and (b) of this subsection shall apply  
10 to a satellite facility of an FQHC or FQHC look-alike.

11 (3) An FQHC, an FQHC look-alike, or a PCC that operates multiple satellite facilities  
12 shall:

13 (a) List each satellite facility on the parent facility's license in accordance with 902 KAR  
14 20:058; and

15 (b) Consolidate claims and cost report data of its satellite facilities with the parent facili-  
16 ty.

17 (4) An FQHC, an FQHC look-alike, or a PCC that has been terminated from federal par-  
18 ticipation shall be terminated from Kentucky Medicaid program participation.

19 (5) A participating:

20 (a) FQHC and its staff shall comply with all applicable federal laws and regulations, state  
21 laws and administrative regulations, and local laws and regulations regarding the admin-  
22 istration and operation of an FQHC;

1 (b) FQHC look-alike and its staff shall comply with all applicable federal laws and regula-  
2 tions, state laws and administrative regulations, and local laws and regulations regarding  
3 the administration and operation of an FQHC look-alike;

4 (c) PCC and its staff shall comply with all applicable federal laws and regulations,  
5 state laws and administrative regulations, and local laws and regulations regarding the  
6 administration and operation of a PPC.

7 (6) An FQHC, an FQHC look-alike, or a PCC performing laboratory services shall meet  
8 the requirements established in 907 KAR 1:028 and 907 KAR 1:575.

9 (7)(a) If an FQHC, an FQHC look-alike, or a PCC receives any duplicate payment or  
10 overpayment from the department, regardless of reason, the provider shall return the pay-  
11 ment to the department.

12 (b) Failure to return a payment to the department in accordance with paragraph (a) of  
13 this section may be:

14 1. Interpreted to be fraud or abuse; and

15 2. Prosecuted in accordance with applicable federal or state law.

16 (8) An FQHC, an FQHC look-alike, or a PCC shall:

17 (a) Agree to provide services in compliance with federal and state laws regardless of  
18 age, sex, race, creed, religion, national origin, handicap, or disability; and

19 (b) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any  
20 amendments to the Act.

21 Section 14. Third Party Liability. A provider shall comply with KRS 205.622.

22 Section 15. Use of Electronic Signatures. (1) The creation, transmission, storage, and  
23 other use of electronic signatures and documents shall comply with the requirements es-  
24 tablished in KRS 369.101 to 369.120.

1 (2) A provider that chooses to use electronic signatures shall:

2 (a) Develop and implement a written security policy that shall:

3 1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

4 2. Identify each electronic signature for which an individual has access; and

5 3. Ensure that each electronic signature is created, transmitted, and stored in a secure  
6 fashion;

7 (b) Develop a consent form that shall:

8 1. Be completed and executed by each individual using an electronic signature;

9 2. Attest to the signature's authenticity; and

10 3. Include a statement indicating that the individual has been notified of his responsibility  
11 in allowing the use of the electronic signature; and

12 (c) Provide the department with:

13 1. A copy of the provider's electronic signature policy;

14 2. The signed consent form; and

15 3. The original filed signature immediately upon request.

16 Section 16. Auditing Authority. The department shall have the authority to audit any:

17 (1) Claim;

18 (2) Medical record; or

19 (3) Documentation associated with any claim or medical record.

20 Section 17. Federal Approval and Federal Financial Participation. The department's  
21 coverage of services pursuant to this administrative regulation shall be contingent upon:

22 (1) Receipt of federal financial participation for the coverage; and

23 (2) Centers for Medicare and Medicaid Services' approval for the coverage.

24 Section 18. Appeals. (1) An appeal of an adverse action by the department regarding a

1 service and a recipient who is not enrolled with a managed care organization shall be  
2 in accordance with 907 KAR 1:563.

3 (2) An appeal of an adverse action by a managed care organization regarding a service  
4 and an enrollee shall be in accordance with 907 KAR 17:010. (Recodified from 904 KAR  
5 1:054, 5-2-86; Am. 15 Ky.R. 1324; eff. 12-13-88; 16 Ky.R. 85; 369; eff. 8-16-89; 2599; eff.  
6 6-27-90; 34 Ky.R. 1827; 2113; eff. 4-4-08.)



907 KAR 1:054E

REVIEWED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lawrence Kissner, Commissioner  
Department for Medicaid Services

APPROVED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Audrey Tayse Haynes, Secretary  
Cabinet for Health and Family Services

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation Number: 907 KAR 1:054E  
Cabinet for Health and Family Services  
Department for Medicaid Services  
Agency Contact: Stuart Owen (502) 564-4321

- (1) Provide a brief summary of:
  - (a) What this administrative regulation does: This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program federally-qualified health center (FQHC) services, FQHC look-alike services, and primary care center (PCC) services.
  - (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the coverage provisions and requirements regarding Medicaid Program FQHC services, FQHC look-alike services, and PCC services.
  - (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the coverage provisions and requirements regarding Medicaid Program FQHC services, FQHC look-alike services, and PCC services.
  - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by establishing the coverage provisions and requirements regarding Medicaid Program FQHC services, FQHC look-alike services, and PCC services.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
  - (a) How the amendment will change this existing administrative regulation: The primary amendment authorizes FQHCs, FQHC-look alike, and PCCs to provide substance use disorder services and expands these providers scope of behavioral health services as well as expands the types of practitioners/professionals who can provide services in an FQHC, an FQHC-look-alike, or a PCC. Additional amendments include inserting various program integrity requirements such as requiring FQHCs, FQHC look-alikes, and PCCs to bill third parties for services if a third party is involved and not duplicate bill for a service provided to the recipient by another provider. Other amendments include establishing that FQHCs, FQHC look-alikes, and PCCs must comply with records maintenance/security requirements and Medicaid provider participation requirements. A new section is added to authorize FQHCs, FQHC look-alikes, and PCCs to utilize electronic signatures. Another section is added to establish that Medicaid Program coverage of FQHC services, FQHC look-alike services, and PCC services under this administrative regulation is contingent upon federal approval and federal funding. Also, there is an amendment which clarifies that the Department for Medicaid Services has the authority to audit any provider claim, medical record, or documentation associated with any claim or medical record. Lastly, a section establishing recipient appeal rights regarding adverse actions is added.
  - (b) The necessity of the amendment to this administrative regulation: The primary

amendment – amendment related to substance use disorder services and behavioral health services – is necessary to comply with a federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act mandates that “essential health benefits” for Medicaid programs include “mental health and substance use disorder services, including behavioral health treatment.” Additionally, the Department for Medicaid Services (DMS) is anticipating a substantial increase in demand for services as a result of new individuals gaining Medicaid eligibility in 2014. Some new individuals will be those eligible as part of the “expansion group” (a new eligibility group authorized by the Affordable Care Act which is comprised of adults under age sixty-five (65), who are not pregnant, whose income is below 133% of the federal poverty level, and who are not otherwise eligible for Medicaid.) Another newly eligible group is a group mandated by the Affordable Care Act comprised of former foster care children between the ages of nineteen (19) and twenty-six (26) who aged out of foster care while receiving Medicaid benefits. Furthermore, DMS anticipates a significant enrollment increase of individuals eligible under the “old” Medicaid rules who did not seek Medicaid benefits in the past, but will do so as a result of publicity related to the Affordable Care Act, Medicaid expansion, and the Health Benefit Exchange. The Medicaid Program is required to ensure that recipients have access to services. Other amendments are necessary to enhance program integrity requirements, establish that coverage of services is contingent upon federal funding (in order to protect state taxpayer generated funds), and establish appeal rights for Medicaid recipients.

- (c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by complying with an Affordable Care Act mandate, enhancing recipient access to services, enhancing program integrity requirements, protecting state taxpayer generated funds, and establishing appeal rights for Medicaid recipients.
  - (d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the authorizing statutes by complying with an Affordable Care Act mandate, enhancing recipient access to services, enhancing program integrity requirements, protecting state taxpayer generated funds, and establishing appeal rights for Medicaid recipients.
- (3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Federally-qualified health centers and primary care centers will be affected by this amendment. Additionally, licensed psychologists, advanced practice registered nurses, licensed professional clinical counselors, licensed clinical social workers, licensed marriage and family therapists, licensed psychological practitioners, licensed psychological associates, certified social workers (master’s level), licensed professional counselor associates, and marriage and family therapy associates who wish to provide substance use disorder services or the enhanced behavioral health services (established in this amendment) while working for or under contract with an FQHC, FQHC look-alike, or PCC will also be affected by this administrative regulation. Medicaid recipients who qualify for substance use disorder services or the enhanced scope of behavioral health services will also be affected by this amendment.
- (4) Provide an analysis of how the entities identified in question (3) will be impacted by

either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. FQHCs, FQHC look-alikes, and PCCs will need to ensure that they use the practitioners authorized in this administrative regulation to provide the new scope of services (expanded behavioral health services and substance use disorder services) if the given FQHCs, FQHC look-alikes, or PCCs wish to expand their scope of services accordingly.
  - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No cost is anticipated as expanding the scope of services is voluntary.
  - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3). FQHCs, FQHC look-alikes, and PCCs will benefit by being authorized to provide more services. The expanded types of behavioral health practitioners/professionals will benefit by having more employment opportunities in which to provide services. Medicaid recipients will benefit by having enhanced access to behavioral health services and substance use disorder services.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: DMS is unable to accurately estimate the costs of expanding the scope of behavioral health services covered in FQHC, FQHC look-alikes, and PCCs due to the variables involved as DMS cannot estimate how many FQHCs, FQHC look-alikes, or PCCs will choose to accordingly expand their scope of services nor how many Medicaid recipients will elect to receive the expanded scope of behavioral health services in FQHCs, FQHC look-alikes, or PCCs.
  - (b) On a continuing basis: The response in paragraph (a) above also applies here.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and matching funds of general fund appropriations.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Neither an increase in fees nor funding is necessary to implement this administrative regulation.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.
- (9) Tiering: Is tiering applied? (Explain why tiering was or was not used.) Tiering is not applied as the policies apply equally to the regulated entities..

## FEDERAL MANDATE ANALYSIS COMPARISON

Regulation Number: 907 KAR 1:054E

Agency Contact: Stuart Owen (502) 564-4321

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23), 42 U.S.C. 1396d(a)(2).

2. State compliance standards. KRS 205.520(3) states:

“Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect.”

3. Minimum or uniform standards contained in the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act mandates that “essential health benefits” for Medicaid programs include “mental health and substance use disorder services, including behavioral health treatment.”

42 U.S.C. 1396a(a)(23), is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to “provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services.” Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization’s provider network.

The Centers for Medicare and Medicaid Services (CMS) – the federal agency which oversees and provides the federal funding for Kentucky’s Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its substance use disorder provider base to comport with the freedom of choice of provider requirement.

42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any given area.

42 U.S.C. 1396d(a)(2) requires Medicaid program coverage of:

“(A) outpatient hospital services, (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (l)(1)) and any other ambulatory services which are offered by a rural health clinic (as defined in subsection (l)(1)) and which are otherwise included in the plan, and (C) Federally-qualified health center services (as defined

in subsection (l)(2) and any other ambulatory services offered by a Federally-qualified health center and which are otherwise included in the plan.”

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 907 KAR 1:054E

Agency Contact: Stuart Owen (502) 564-4321

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation as will any FQHC, FQHC look-alike, or PCC owned by a government agency.
2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation authorizes the action taken by this administrative regulation.
3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
  - (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The Department for Medicaid Services (DMS) is unable to project the impact of this amendment on revenues for state or local government agencies as it depends on how many FQHCs, FQHC look-alikes, or PCCs that are owned by a government entity elect to expand their scope of services to include substance use disorder services and other new behavioral health services and on utilization of those services in such entities.
  - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The response to question (a) also applies here.
  - (c) How much will it cost to administer this program for the first year? DMS is unable to accurately estimate the costs of expanding the scope of behavioral health services covered in FQHC, FQHC look-alikes, and PCCs due to the variables involved as DMS cannot estimate how many FQHCs, FQHC look-alikes, or PCCs will choose to accordingly expand their scope of services nor how many Medicaid recipients will elect to receive the expanded scope of behavioral health services in FQHCs, FQHC look-alikes, or PCCs.
  - (d) How much will it cost to administer this program for subsequent years? The response to question (c) above also applies here.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: